

Planning Commission Staff Report
March 15, 2007



Case:	9-56-06
Project Name:	Redbud Center
Location:	7945 S 3 rd Street
Owner(s):	HTRS, LLC
Applicant:	TY & TR, LLC & HTRS, LLC
Engineer:	Mindel-Scott / Kathy Linares
Representative:	Bill Bardenwerper
Project Size/Area:	3.08 gross and 2.62 net acres
Form District:	Neighborhood
Zoning Change:	M-1 to C-1
Existing Use:	Vacant land
Proposed Use:	Retail center, gas convenience store
Jurisdiction:	Louisville Metro
Council District:	25—Doug Hawkins
Case Manager:	Stephen A. Lutz – presented by Mike Wilcher

Request

Approval of a change in zoning from M-1 Industrial to C-1 Commercial and approval a detailed district development plan to permit construction of a retail center on the development site.

Staff Recommendation

Staff recommends approval of the requested change in zoning.

Case Summary / Background

Summary

The applicant requests to re-zone the subject parcel from M-1 Industrial to C-1 Commercial to allow a 2,880 square foot convenience store / gas station and a 13,200 square foot one-story retail building. The development is to be accessed from Third Street Road with a full access point and from Outer Loop with limited access due to a required barrier median.

The initial plan proposal requested a 105-foot variance to permit the retail structure to exceed the maximum building setback; however, an alternative setback option in LDC Section (5.1.9 B.1) was used to eliminate the requested variance. This alternative option permits retail developments less than 100,000 square feet in area to exceed the maximum building setback in Neighborhood Form Districts if the parking lot is screened by a 4-foot tall berm located within a 15-foot Landscaped Buffer Area adjacent to public street frontage.

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In addition, a 15-foot wide landscaped area -- containing a 5-foot wide landscaped walkway -- must link the principle structure on the site to the public sidewalk in the right-of-way.

Site Context

This site is located at the northeast corner of Outer loop and Third Street Road. To the east is vacant land, zoned C-2 commercial. To the north is a church, also zoned C-2 commercial. To the south is C-2 commercial and M-2 Industrial properties and to the west is C-2 commercial and R-4 single-family residential property. The entire area is in the Neighborhood form district.

Land Use / Zoning District / Form District

	Land Use	Zoning	Form District
<i>Subject</i>			
Existing	Vacant land	M-1	Neighborhood
Proposed	Convenience gas station, retail	C-1	Neighborhood
<i>Surrounding</i>			
North	Church	C-2	Neighborhood
South	Commercial and industrial	C-2 & M-2	Neighborhood
East	Vacant land	C-2	Neighborhood
West	Commercial & single-family residential	C-2 & R-4	Neighborhood

Project History

Project History	Date	Issues addressed / discussion / changes to proposal
Project submittal	10/18/06	
Revision submittal	12/4/06	Response to staff comments
LD&T	12/28/06	
LD&T	3/8/07	
Planning Commission	2/1/07	
Planning Commission	3/15/07	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

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Site Inspection Committee Comments

- 1) Concern about illegal left turns out of the “Right Turn Exit Only” on Outer Loop. **(KTC required installation of a barrier on Outer Loop to address this issue).**
- 2) Land use appropriate, good down zoning.
- 3) Check sidewalks on Outer Loop. **(Sidewalks will be provided).**
- 4) Design could be improved, check for TARC stop. **(Revised facade elevations were submitted to address design issues. No TARC stop on site).**
- 5) Access easement leads to church property.

Staff Findings

Relationship to the Comprehensive Plan – Cornerstone 2020 Plan Elements:

Community Form: The site is in the Neighborhood form district, which supports a wide variety of non-residential uses, if the infrastructure is in place to support the development and the development is part of an activity center. The downzoning of the property is consistent with the Comprehensive Plan recommendations that neighborhoods be reinforced and stabilized. The proposed new construction on this lot is located in an established activity center and is an appropriate use for the area since this M-1 zoned site is adjacent to C-2 commercial zoned parcels to the north, east, south, and west, with the exception of part of the western boundary of the site, which is adjacent to R-4 zoned properties.

(1.B.3, 2.1, 2.3, 3.1, 3.2)

Mobility/Transportation: Entrances are proposed from both Third Street Road and Outer loop with a right turn entrance and exit only on Outer Loop.

(7.1, 7.2, 9.1, 9.2)

Environmental: There are no concerns in regard to topography,

Standard of Review

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved, which were not anticipated in Cornerstone 2020, which have substantially altered the basic character of the area.

Attached Documents / Information

Opposition Letter from Redbud Neighborhood Association - Vice chairman
LOJIC Zoning Map

RE: Convenience/gas station proposal, docket number 9-56-06V

Copy: Mike Wilcher, Planning & Design Services

From the message below, I read that the developer has agreed to add a park bench at the proposed gas station!!! Wow!!!!

Please excuse my lack of enthusiasm but I am just not seeing how this will enrich our neighborhood. I was unable to attend the first developer's meeting but as it was conveyed to me, the developer did not seem to want to consider any other proposals other than a "gas/convenience station". I do not see such a stance as being "accommodating".

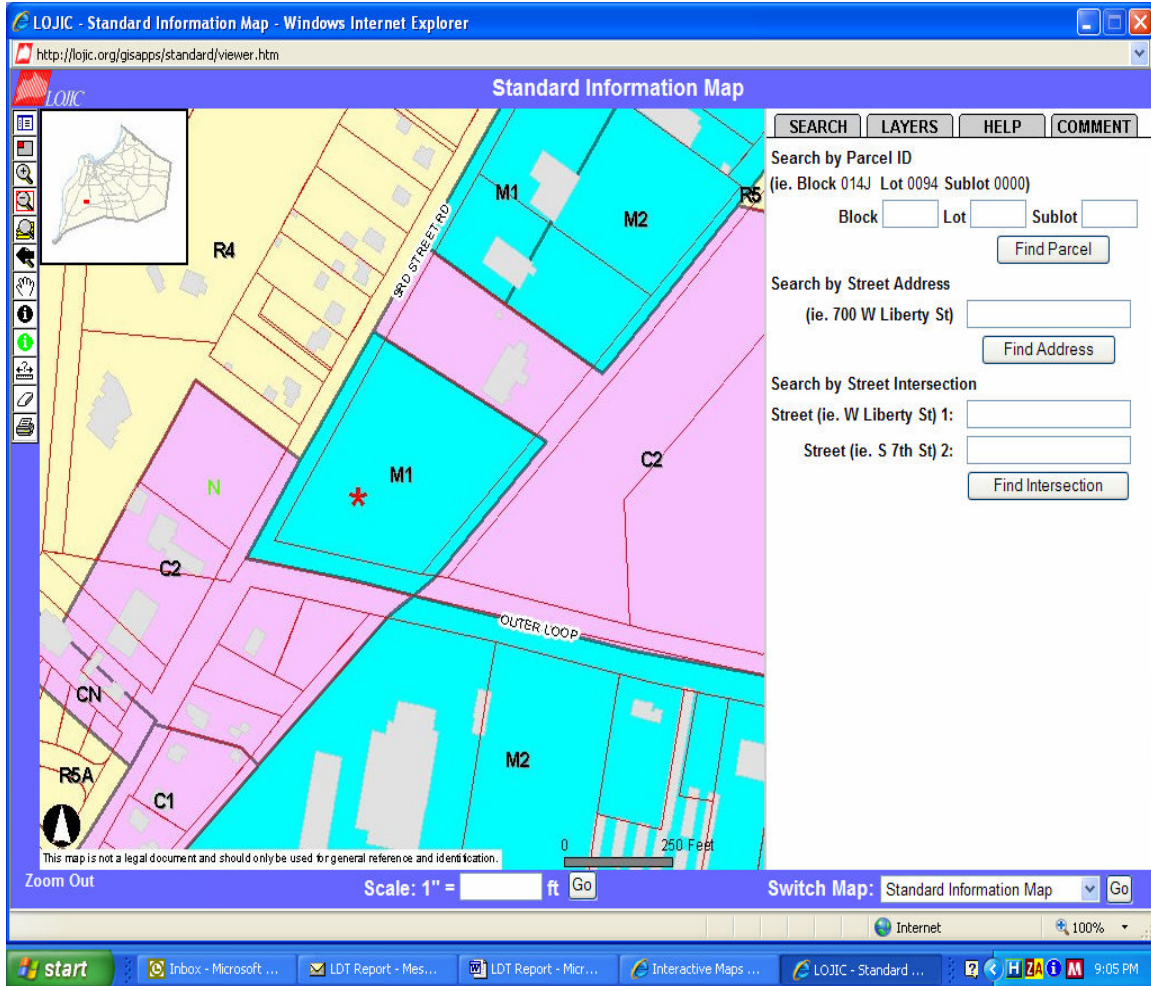
From what I have been told, this proposal involves building another "Circle K" gas/convenience store on the vacant corner at Third Street and the Outer Loop. How many of these gas station/convenience stores do we possibly need along the Third Street Rd. corridor? It seems we have one at every intersection - every 1/2 mile to mile or so except for this intersection. How can we possibly be asked to support another gas station that will be another source for more noise and pollution in our community? There are plenty of other Circle K gas stations along this road, why do we need this particular one?

We owe it to the children of this community to be more diligent in preventing additional southwest community deterioration and the pollution that follows it. Instead of golf courses and nice restaurants (which are obviously found in the east end), we have the Kosmosdale and LG&E smoke stacks for our viewing and health, plus every imaginable fast-food outlet. And, for our shopping needs, we have gas/convenience stores at almost every intersection.

I'm not against developing this particular piece of property, but I am absolutely against another gas station. A bank, an office building, a coffee shop - or anything similar would be welcome. The current proposal of another gas station/convenience store will only keep us at a competitive disadvantage if "nicer" / more environmentally-friendly businesses ever start looking for a location in our community. It's time to say "NO".

Sincerely,
Nelson Lemmon
8000 Manslick Road, Louisville KY, 40214
Vice Chairman, Redbud Neighborhood Association

Zoning Map



Notification

The following forms of notification were provided pertaining to this proposal:

Notification

Date	Description	Recipients
12/29/06 02/13/07	Notice of Public Hearing Notice of Public Hearing	Adjoining property owners and neighborhood group listing for Council District 25 and other interested parties.

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Proposed Standard Binding Elements - Docket # 9-56-06 V

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The square footage of the development shall not exceed 16,080 square foot of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot and dedicating right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. If trees exist on the site, a Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

- f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 15, 2007 Planning Commission meeting.

All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

Name

Title

Date